

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARCUS A. MICOLO,

Petitioner,

-against-

THE STATE OF NEW YORK,

Respondent.

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APPEARANCES:

For Petitioner: Marcus A. Micolo, Pro Se
 03A3985
 Clinton Correctional Facility
 P.O. Box 2000
 Dannemora, NY 12929

For Respondent: Glenn Green, Esq.
 Suffolk County District Attorney's Office
 Criminal Courts Building
 200 Center Drive
 Riverhead, New York 11901

SEYBERT, District Judge:

Petitioner moves for a stay of the instant proceedings so that he may return to state court to exhaust the claims he raises in his petition for a writ of habeas corpus. The motion is GRANTED.

Petitioner is warned that he may be barred from reopening his federal habeas petition if he delays in initiating collateral proceedings in state court or if, having been denied relief in state court, he delays in seeking to re-initiate these federal proceedings. The parties are advised that the Court of Appeals for the Second Circuit has found a reasonable period of time in which to initiate state collateral proceedings is 30 days and that a

reasonable period of time in which to re-initiate federal proceedings following a state court decision is also 30 days. See Zarvela v. Artuz, 254 F.3d 374, 380-81 (2d Cir. 2001).

If Petitioner fails to re-initiate these federal proceedings within 30 days of of state court decision, Respondent may move, on notice to Petitioner, to vacate the entered stay and to dismiss the petition for failure to prosecute, or on other grounds.

The Clerk of the Court is directed to terminate all pending motions, without prejudice. Petitioner may renew these motions provided that he moves to re-initiate these proceedings in accordance with the Court's guidelines above.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: August 7, 2009
Central Islip, New York